

OPINION
59-285

March 24, 1959 (OPINION)

TOWNSHIPS

RE: Powers of Townships - Contribution for Extra -
Township Memorial Construction Unauthorized

I have received your letter of March 20, 1959, requesting our opinion on whether or not Thelma Township in Burleigh County may contribute one thousand dollars to Driscoll Township for the construction of a memorial building in the town of Driscoll. This memorial building would be beyond the confines of Thelma Township. You add further that it is your view that the township would have no authority to use its funds for a memorial building outside of its own boundary lines. In this view we concur, and for the following reasons:

Section 11-3203 of the 1957 Supplement to the N.D.R.C. of 1943 authorizes a board of county commissioners to join with cities, school districts, or other public or private corporations or agencies, in county memorials. It does not grant authority to anyone but county commissioners. It seems significant, however, that townships are not specifically mentioned among the subdivisions county commissioners are authorized to deal with.

Subsection 2 of section 58-0301 of the N.D.R.C. of 1943 authorizes township ownership of lands within its limits. There is no other applicable grant of authority to own lands by townships.

Section 58-0302 of the N.D.R.C. of 1943 limits township powers to those enumerated, to those that are specially given by law, and to those necessary in the exercise of powers enumerated.

Section 48-0401 of the N.D.R.C. of 1943 authorizes a township and an incorporated municipality, within its limits, to own property jointly. There is no similar grant of authority covering municipalities without the limits of townships.

Section 30, page 486, 51 Am. Jr., Towns and Townships, provides that: "Towns, in their corporate capacity, may acquire and hold real estate by gift, devise, or purchase. They may purchase and hold lands within their own limits for the use of their inhabitants. . . ." (Emphasis supplied). This is not a direct statement, but it would seem to imply that they may not purchase and hold lands without their own limits. Section 185 of our state constitution restricts them from making donations and therefore I do not see any possible way by which they could contribute to the building of a memorial in Driscoll, even though they would like very much to do so.

Therefore, it is the opinion of this office that there is no legal way for Thelma Township to contribute toward the erection of this memorial building without the limits of its own territory.

LESLIE R. BURGUM

Attorney General